

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

AARON GRUBBS,

*

PLAINTIFF,

*

VS.

*** CASE NO.: 2:05-CV-604-WKW**

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**CITY OF EUFAULA,
ALABAMA**

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DEFENDANTS.

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**REPLY TO MOTION FOR AWARD
OF ATTORNEY'S FEES AND EXPENSES**

Comes now the Plaintiff, Aaron Grubbs, and in reply to the Defendant's Motion for Attorney's Fees and expenses under Rule 54(d) says as follows:

The City's claim for \$12,213.50 as Attorney's fees is excessive given the nature of the Plaintiff's claim and redundancy of the defense claimed by the Defendant. Much of the legal research and background information collected on Plaintiff by the Defendant, Defendant already had from work actually performed in Aaron Grubbs v. Town of Louisville, Alabama, 2:04-cv-1025-F, also handed by the same Counsel. Moreover, an alarming amount of billed time is redundant in that contact is made to multiple employees of the City concerning the same issue.

Additionally while Defense Counsel is relatively in-experienced, the time devoted to simple document preparation is disproportionate to the actual time needed for preparation (i.e. Answer, 2 hours; Rule 26 (f) Report, 1 hour; Initial Disclosures, 1 hour). In short, the Defendant's claim appears to be greatly inflated with much activity devoted to "churning-like" conduct. This conclusion is further highlighted by the ratio of fees to litigation expenses.

Lastly, the Defendant has not met its burden of producing satisfactory evidence that the hourly rates charged are comparable to those prevailing in the Community for similar services by lawyers of reasonably comparable skill, experience and reputation as mandated by Blum v. Stenson, 465 U.S. 886, 888 (1994). Expenses are limited to those items found in 28 U.S.C. 1920; mileage and mail are not included there.

Malcolm R. Newman, Attorney, PC
/s/ Malcolm R. Newman
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ASB-2826-M39M

CERTIFICATE OF SERVICE

I hereby certify that on December 22nd, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

James H. Pike
206 North Lena Street
P.O. Box 6346
Dothan, Alabama 36302-6346

/s/Malcolm R. Newman
Malcolm R. Newman